

EXHIBIT C

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3

RONI GILADI,

4

PLAINTIFF,

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Index No.: 94 CIV 3975

6

-against-

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BERISH STRAUCH, HARRIS STERMAN,
DEBRA IRIZARRY, MONTEFIORE MEDICAL CENTER,
"JOHN DOE," and RICHARD "ROE," last two names
being fititious, true names being unknown,

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DEFENDANTS.

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DATE: November 22, 2000

14

TIME: 10:00 a.m.

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EXAMINATION BEFORE TRIAL of the

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Plaintiff, RONI GILADI, taken by the Defendant,

19

pursuant to a Court Order, held at the offices of

20

Philip J. Dinhofer, 450 Seventh Avenue, New York,

21

New York 10001, before a Notary Public of the State

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of New York.

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DIAMOND REPORTING -718-624-7200- 16 Court St., B'klyn, NY

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A P P E A R A N C E S:

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File #: 1350037
FOJP: V91-1420-4010

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein that the sealing, filing and certification of the within examination before trial be waived; that all objections except as to form are reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that the transcript may be signed before any Notary Public with the same force and effect as if signed before a clerk or a Judge of the court.

IT IS FURTHER STIPULATED AND AGREED that the examination before trial may be utilized for all purposes as provided by the CPLR.

IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the CPLR cannot be deemed waived and the appropriate sections of the CPLR shall be controlling with respect hereto.

IT IS FURTHER STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that a copy of this examination shall be furnished, without charge, to the attorneys representing the witness testifying herein.

1

2 R O N I G I L A D I, called as a witness, having
3 been first duly sworn by a Notary Public of the
4 State of New York, was examined and testified as
5 follows:

6 EXAMINATION BY

7 MR. BURFORD:

8 Q. Please state your name and address for
9 the record.

10 A. Roni Giladi, 25 Wedgewood Drive, West
11 Orange, New Jersey 07052.

12 Q. Good morning, Mr. Giladi.

13 A. Good morning.

14 Q. Could you tell us how long you have
15 lived at 25 Wedgewood Drive?

16 A. Since I sold my house on Five Walker
17 Road.

18 Q. W-A-L-K-E-R?

19 A. Uh-huh.

20 Q. When did you sell the house?

21 A. I do not recall.

22 Q. What town was Five Walker in?

23 A. West Orange.

24 Q. Do you have any approximation of when
25 you moved out of the Five Walker Road address?

1 GILADI

2 A. Sometime in the beginning of, sometime
3 early '90s, I believe so.

4 Q. Did you move directly from Five Walker
5 Road to 25 Wedgewood Drive?

6 A. That's correct.

7 Q. Did you live anywhere in between?

8 A. No. And I think we went over that
9 already once before.

10 Q. Do you maintain any other residences at
11 the moment, besides 25 Wedgewood Drive?

12 A. No.

13 Q. Do you own the house on Wedgewood
14 Drive?

15 A. No.

16 Q. Who owns the house?

17 A. The Jacobs family, but we went through
18 that already.

19 MR. DINHOFER: I'll note for the record
20 a general objection that we covered this subject
21 matter at length in prior deposition testimony. I
22 think the purpose of today's deposition is not to
23 rehash old testimony, but to go through new
24 matters.

25 MR. BURFORD: I am not so sure I am

1 GILADI

2 rehashing old testimony.

3 MR. DINHOFER: Well, it's in the
4 transcripts. I am going to state my generalized
5 objection. And I will preserve that for the time
6 of trial, but let you continue. I assume you are
7 going to be superficial on these areas.

8 Q. How long have you known the Jacobs
9 family?

10 A. From the mid-'80s.

11 Q. Who does the Jacobs family include?

12 A. Parent and nine kids.

13 Q. What are the names?

14 A. What would you like to know exactly?

15 Q. The names of the Jacobs.

16 A. The names of the Jacobs, okay.

17 Q. The parents, anyway.

18 A. Simon, and Barrie.

19 Q. B-A-R-R-I-E?

20 A. Yes.

21 MR. DINHOFER: You have to speak up.

22 THE WITNESS: I am repeating something,
23 everything is in the transcript and I think it's a
24 waste of time.

25 MR. DINHOFER: I understand your

1 GILADI

2 frustration. And I would also request that we move
3 on because this has really been covered in detail,
4 who the Jacobs are, his relationship, and
5 everything about that is old news.

6 Q. Are you employed?

7 A. No.

8 Q. When were you last employed?

9 A. August 8 -- '94.

10 Q. Where were you last employed in August
11 of 1994?

12 A. Albert Einstein College of Medicine.

13 Q. In what capacity?

14 A. I was video technician level three.

15 Q. Have you worked anywhere since then?

16 A. No.

17 Q. How do you support yourself?

18 A. I receive--

19 MR. DINHOFFER: Note my objection in
20 general. I don't believe it's relevant how he
21 supports himself, but I will permit him to answer
22 over objection.

23 A. (Continuing) I receive Workmen's Comp.

24 Q. Is the Workmen's Compensation payment
25 as a result of an injury?

1 GILADI

2 A. Yes.

3 Q. What injury is that?

4 A. Lower back. And carpal tunnel
5 syndrome.

6 Q. When did you injure your lower back?

7 A. June of 1993.

8 Q. Who has treated you for carpal tunnel?

9 A. Strauch.

10 Q. Anyone else treated you for carpal
11 tunnel?

12 A. Treated me, no. Evaluated me, yes.

13 Q. Who else has evaluated you?

14 A. From what period of time are you
15 talking about?

16 Q. Well, why don't we go back the last
17 four years?

18 A. The last four years? Dr. Goldstein.
19 That's it.

20 Q. Have you seen any other doctors for
21 evaluation or treatment of carpal tunnel, besides
22 Dr. Goldstein?

23 A. I saw the Workmen's Comp. physicians,
24 but I cannot give you their names because I do not
25 know who they are.

1 GILADI

2 Q. Since the end of 1995, have you been
3 seen by any physicians at all for any reason?

4 A. If I am not mistaken, and again, this
5 is, I am trying, this is a long time ago, and I
6 cannot swear to that, but I believe I saw Dr. Joel
7 Cohen, maybe on one or two occasions. And the rest
8 is Dr. Goldstein. And his partner, of course.

9 Q. Have you seen any physicians for any
10 other, any other physicians at all for any reason
11 in the last five years?

12 A. Not that I recall. I will ask you a
13 question, you are talking about with regard to my
14 hand?

15 Q. No. My question, sir, was any reason
16 whatsoever.

17 A. I have a doctor that I saw in Israel, I
18 forgot about him totally. Dr. Russo. R-U-S-S-O,
19 something like that. The last time I saw him was
20 October of this year.

21 Q. Any other doctors that you have seen in
22 the last five years, for any reason whatsoever?

23 A. I do not recall at the moment. If I
24 remember through the deposition, I will let you
25 know.

1 GILADI

2 Q. Did you see a Dr. Sadeh?

3 A. In the last five years? I may -- I do
4 not recall when I saw him, but I saw him once or
5 twice.

6 Q. Did you see him once or twice or did
7 you see him more than once or twice?

8 A. I saw him more than once or twice, but
9 you are talking about the last five years. The
10 last five years, also I saw doctors in Tel Aviv.

11 Q. What brought you to see Dr. Sadeh?

12 A. Talking about Dr. Sadeh?

13 Q. Yes.

14 A. Frustration. Of being lied by my own
15 physician.

16 Q. Of being --

17 A. Lied. By my own physician.

18 Q. L-I-E?

19 A. Yes.

20 Q. What physician is that?

21 A. Dr. Strauch.

22 Q. What lie did Dr. Strauch tell you?

23 A. Prior to surgery, he told me that the
24 surgery is very simple, no complication, no side
25 effect, and within three weeks I will be going back

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GILADI

to work.

Q. Within how long?

A. Three weeks.

Q. Before you came to today's deposition, did you review any documents?

A. No.

MR. DINHOFFER: I don't think he finished his answer.

Q. If you didn't finish, go ahead.

A. I didn't finish. And nine months after surgery, I believe nine months after surgery, he accused me of being, what is the word, I forgot the word, like I have everything in my head, and I have no medical problem, which I resent this kind of comment. When I asked him if it's the case, why for three months my hand was falling -- swollen.

Q. Your hand was what?

A. Swollen. "Why did you call me to open the cast on emergency visit." He refused to respond. His refusal led me to believe that I am having some problem, but I never am going to find it from him. So I was seeking some help from other sources. That's why I arrived to Dr. Sadeh's office for evaluation of my condition.

1 GILADI

2 Q. Are you finished?

3 A. Yes.

4 Q. Before you came today for the
5 deposition, did you review any documents?

6 A. No.

7 Q. Have you ever reviewed your earlier
8 depositions in this case?

9 A. No.

10 Q. Were you ever shown your earlier
11 depositions in this case?

12 A. After I had my deposition I saw them,
13 but since then I --

14 Q. Have you ever made any corrections to
15 your depositions your earlier depositions?

16 A. I looked at them, I -- I don't think I
17 made any correction yet. I was having a lot of
18 pain and I couldn't concentrate.

19 Q. Other than Dr. Sadeh, have you been
20 seen by any other doctors since 1995?

21 A. I said I was seeing somebody else in
22 Tel Aviv, he is in orthopedics, I do not recall his
23 name at the moment.

24 Q. Do you remember, was this doctor
25 hospital-based or was he in private office?

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GILADI

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A. No, I saw him in his private office.

3

Q. Do you have any health insurance?

4

A. Since I have been fired, no.

5

Q. No?

6

A. No.

7

Q. Who pays your medical bills?

8

A. Which one?

9

Q. Any of your medical bills.

10

A. Some of them I pay from my own pocket.

11

Q. Does anyone else pay any of the other

12

bills?

13

A. Workmen's Comp.

14

Q. Other than either your own pocket or

15

Workmen's Comp., do you have any other source of

16

reimbursement for medical payments?

17

A. Not that I'm aware.

18

Q. The orthopedist that you saw in Tel

19

Aviv, what brought you to see the orthopedist?

20

A. I went to him strictly because of my

21

back.

22

Q. As far as you understood it, what was

23

wrong with your back?

24

A. Herniated disk, the lower back.

25

Q. Do you know what level is herniated?

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GILADI

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A. The lowest, I think around disk one, if

3

I am not mistaken, L-4, L-5, S-1, if I am not

4

mistaken.

5

Q. Have you undergone surgery for your

6

back?

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A. No.

8

Q. Has surgery for your back been

9

recommended?

10

A. Yes.

11

Q. Who recommended it?

12

A. Doctor, the doctor or the orthopedist

13

from Tel Aviv, and Dr. Goldstein. Also, I think

14

Dr. Joel Cohen, I believe so. As I said, it's --

15

it's a long time ago since I saw all these --

16

Q. Any particular reason you haven't had

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surgery on your back?

18

A. Yes. There is no guarantee that it

19

will be improvement. It's one thing, and my

20

experience with Dr. Strauch, doubt any surgery on

21

my part.

22

MR. DINHOFFER: Would you read that

23

answer?

24

(Whereupon, the referred to answer was

25

read back by the Reporter.)

1 GILADI

2 A. (Continuing) especially when somebody
3 telling me that I will have full recovery and I
4 became to be a disabled, when you tell me 50/50,
5 it's not giving me any choice for me to think about
6 surgery.

7 Q. Have you had surgery since Dr. Strauch
8 operated on you?

9 A. Yes.

10 Q. When you had that surgery, since
11 Dr. Strauch operated on you, let me put it this
12 way. Withdraw the question.

13 Did your experience with Dr. Strauch
14 stop you from having that surgery?

15 A. If I ever, I do not understand.

16 Q. You had surgery since Dr. Strauch,
17 correct?

18 A. That's correct.

19 Q. What kind of surgery did you have?

20 A. I had surgery to my elbow.

21 Q. Which elbow was that?

22 A. The same elbow Dr. Strauch had surgery
23 on.

24 Q. Obviously then your experience with
25 Dr. Strauch did not stop you from having that

1 GILADI

2 operation?

3 A. No. I was -- I was going for almost,
4 for long period of time until I made my decision to
5 go for surgery.

6 Q. Then what about your experience with
7 Dr. Strauch is stopping you from having surgery on
8 your back then?

9 A. As I said, he promised me, he promised,
10 he told me 100 percent I will be recovering and I
11 will not have any problem. I have ulnar nerve
12 atrophy because of his surgery, which I know that
13 doctor is going to touch my nerve in my back, and I
14 do not want to be totally handicapped.

15 Q. Dr. Russo touched the nerve in your
16 arm, right, when he operated?

17 A. I didn't have a choice, my hand already
18 being screwed.

19 Q. Let me ask you again, sir.

20 Why did Dr. Strauch's experience
21 prevent you from having surgery on your back, but
22 it didn't prevent you from having surgery on your
23 elbow by Dr. Russo?

24 MR. DINHOFER: Objection, asked and
25 answered. Go ahead.

1 GILADI

2 A. Because my hand, already I was not
3 functioning with my hand, I was having a lot of
4 pain, I couldn't sleep at night. I could not have
5 anybody touch my hand or be close to me, I was
6 isolating myself from people, I was isolating
7 myself from my family. If a friend came and give
8 me (indicating), a touch on my shoulder, I would
9 sometimes almost hit him back as a reflex. I
10 couldn't live with it anymore. For four years I
11 was living this kind of life, it was too much for
12 me.

13 Q. Are you having pain in your back?

14 A. If I have pain, not the way I have in
15 my elbow.

16 Q. Do you have pain in your back?

17 A. I am controlling it, I know how to
18 handle it, it was not the same pain as I had in my
19 elbow.

20 Q. Do you have pain in your back?

21 A. I have pain.

22 Q. Does the pain in your back keep you
23 from doing things?

24 A. Yes.

25 Q. What things does it keep you from

1 GILADI

2 doing?

3 A. Depends on a day.

4 Q. Pick any day, over the course of a
5 week, tell me what activities the pain in your back
6 prevents you from doing?

7 A. I cannot give you a list.

8 Q. What about over a month?

9 A. I am not giving you any list because I
10 cannot give you a list.

11 Q. Why can't you give me a list?

12 A. Because. This can be, depends what I
13 do. Depends what I am, what is my -- activity, and
14 my back pain is related to what I do. My elbow was
15 not related to what I do, it's related to injury to
16 the nerve, that I have no choice just to suffer.
17 With my back I can control, if I have pain, I can
18 lay down for two hours, three hours, and I feel
19 better. With my elbow I can lay down and I still
20 have the pain.

21 Q. Did you testify anywhere else about any
22 limitations of activities secondary to your back
23 pain?

24 A. Yes.

25 Q. What limitations of activities did you

1 GILADI

2 testify to?

3 A. You know exactly. You have the report.

4 Q. What are they, sir? What are the
5 limitations --

6 A. My limitation because I have a
7 limitation, I can control it by taking care --

8 MR. DINHOFER: Roni, his question is
9 what are the limitations that you testified to?

10 A. (Continuing) I cannot sit for a long
11 time. I cannot stand for a long time, I cannot
12 push, I cannot pull, I cannot carry heavy
13 equipment. And all that I can avoid and -- pain in
14 my elbow I couldn't avoid --

15 MR. DINHOFER: He is not asking you
16 about your elbow, he is just asking you about your
17 limitations, just answer his question.

18 THE WITNESS: I answered.

19 Q. When you say you "can't sit for long
20 period of time," how long are you able to sit?

21 A. Depends on my condition, my condition
22 what I did prior to me sitting. If I was laying
23 down I can sit longer, if I was active I was not
24 going to be able to sit longer.

25 Q. If you were laying down?

1 GILADI

2 A. I cannot-- I cannot give you time, I do
3 not know.

4 Q. How long can you sit?

5 A. I don't know.

6 Q. If you were active, how long would you
7 be able to sit?

8 A. I cannot give you time.

9 Q. How long are you able to stand?

10 A. I have no time limits, this can be five
11 minutes, it can be ten minutes, it can be half
12 hour, I do not know.

13 Q. Does --

14 A. Depends.

15 Q. What does it depend on?

16 A. As I said, what I did prior to that.

17 Q. The two options being whether or not
18 you were lying down or whether or not you were
19 active?

20 A. I don't understand the question.

21 Q. The variables that you indicated that
22 impact on how long you can stand, what are they?

23 A. As I said, if -- which I was doing, if
24 I am taking a ride in the subway, it's not good for
25 me.

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GILADI

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Q. If you take a ride on the subway, for example, how long are you able to stand?

4

5

6

A. I cannot tell you. As I said, I am not timing myself. I know when I feel pain I lay down.

7

8

Q. How often on a daily basis do you find you have to lay down?

9

10

11

12

13

A. On the basis -- on a daily time?

Q. Yes.

A. I didn't have a stop watch in my hand and I am not counting, I cannot tell you, I am sorry.

14

15

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19

Q. Did you testify anywhere else to time limits, or to the ability as to sit or stand?

A. I think I told you the time limit that I testified in other places already. This can be from five minutes, 20 minutes, half hour, this is what I recall.

20

21

22

23

24

Q. Or more?

A. I don't think so.

Q. You mentioned your back also gave you problems sleeping. What kind of problems does it give you sleeping?

25

A. My elbow gave me problems sleeping.

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GILADI

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Q. We were talking about your back before,

3

I believe you mentioned difficulty sleeping?

4

A. No, no.

5

Q. No difficulty sleeping from your back?

6

A. Usually I take medication when I lay

7

down, I am -- laying down is not giving me a hard

8

time. If I -- no.

9

Q. What medications do you take for your

10

back?

11

A. At the moment I take over the counter,

12

Advil and Tylenol, combination of two.

13

Q. How often do you take them?

14

A. As I feel pain.

15

Q. How often is that?

16

A. More than three times a day.

17

Q. Do you take an Advil and a Tylenol or

18

something else?

19

A. I take them together. I take two and

20

two.

21

Q. Two Advil and two Tylenol?

22

A. That's correct.

23

Q. Does that alleviate the pain in your

24

back?

25

A. Relief, yes. In some ways.

1 GILADI

2 Q. What do you mean "relief in some ways"?

3 A. I can function a little bit.

4 Q. What do you mean by "function a little
5 bit"?

6 A. I mean I can do things that I cannot do
7 with prior to taking the medications.

8 Q. What sort of things?

9 A. Such as -- maybe sitting longer than
10 five minutes.

11 Q. Anything else?

12 A. It's what comes to my mind at the
13 moment.

14 Q. You also mentioned that as a result of
15 your disability you were isolated from your family?

16 A. This is because of my hand.

17 Q. What family is it that you are isolated
18 from?

19 A. My family in Israel. When I am with
20 them, they are not allowed to be close to me. They
21 used to be not allowed to be close to me. They
22 were not allowed to give me a hug when I came to
23 visit or anything like that.

24 Q. How often do you visit Israel?

25 MR. DINHOFER: During what period of

1 GILADI

2 time?

3 Q. In the last five years?

4 A. Twice, three times a year.

5 Q. Who pays for your fare back and for
6 the?

7 A. The family.

8 MR. DINHOFER: Note my objection to
9 the relevance.

10 Q. Do you have an Israeli passport?

11 A. Yes.

12 Q. Do you have an American passport?

13 A. Yes.

14 Q. Do you travel on both or do you use one
15 or the other?

16 A. I travel on both.

17 Q. When you say you "travel on both," what
18 do you mean by that?

19 A. I have to show Israeli government
20 Israeli, and I have to show American government
21 American.

22 Q. When you get to Israel you hand them
23 Israeli passport, and when you get back to New York
24 you hand them the American passport?

25 A. That's correct.